

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHARLSTON D. HARPER,

Plaintiff,

V.

SPOKANE FIRE DEPARTMENT,
MICHAEL E. KULSROD, WILLIAM
P. LEEPER and DENNIS ALAN
BRADBURY, JR.,

Defendants.

NO: 2:17-CV-0272-TOR

ORDER DISMISSING COMPLAINT

BEFORE THE COURT is Plaintiff's deficient complaint, ECF No. 12.

15 Plaintiff, then a prisoner at the Spokane County Jail, is proceeding *pro se* and *in
forma pauperis*; Defendants have not been served.

17 By Order filed October 19, 2017, the Court advised Plaintiff of the
18 deficiencies of his complaint and directed him to amend or to voluntarily dismiss his
19 complaint by December 18, 2017 (within 60 days of the Order). ECF No. 13.
20 Plaintiff did not comply with this directive and it is no wonder because the Court's

1 Order was returned as undeliverable. ECF No. 16. Plaintiff was previously advised
2 of his obligation to provide the Court with any change of address. ECF No. 7.
3 Indeed, Plaintiff must have understood his obligation because he did so on August
4 24, 2017. ECF No. 10. It is Plaintiff's responsibility to keep the Court informed of
5 his current address and he has failed to do so.

6 Here, the Court has weighed the factors required to be considered prior to
7 dismissal. *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting five factors
8 listed in *Henderson v. Duncan*, 779 F.2d 142, 1423 (9th Cir. 1986)). Additionally,
9 notice to Plaintiff now would be a futile gesture and no less drastic sanction is
10 available to the Court. *Carey*, 856 F.2d at 1441. It would be absurd to require this
11 Court to hold this case in abeyance indefinitely waiting to see if Plaintiff would
12 someday update his address and prosecute this lawsuit. *See id.*

13 **ACCORDINGLY, IT IS HEREBY ORDERED:**

14 1. The complaint (ECF No. 12) is **DISMISSED without prejudice** for failure
15 to state a claim upon which relief may be granted under 28 U.S.C. §§
16 1915(e)(2) and 1915A(b)(1) and for failure to prosecute.
17 2. Plaintiff's *in forma pauperis* status is revoked.
18 3. The Court certifies any appeal of this dismissal would not be taken in good
19 faith.

1 The District Court Executive is directed to enter this Order, enter judgment, and
2 **close** the file. The District Court Executive is further directed to forward a copy of
3 this Order to the Office of the Attorney General of Washington, Corrections
4 Division.

DATED December 20, 2017.



Thomas O. Rice
THOMAS O. RICE
Chief United States District Judge